



December 29, 1999

Ms. Katherine Minter Cary
Assistant Attorney General
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR99-3801

Dear Ms. Cary:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 131221.

The Office of the Attorney General (the "attorney general") received a request for information relating to a child support case to which the requestor was a party. You state that some responsive documents have been provided to the requestor. You seek to withhold other requested information under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

As you acknowledge, your request for a decision is dated more than ten business days after the attorney general's receipt of the written request for information. Under sections 552.301 and 552.302 of the Government Code, a governmental body has ten business days in which to either release requested information or request a decision from the attorney general and state the exceptions that apply to information that the governmental body wishes to withhold. When a governmental body fails to request a decision and state the exceptions that apply within ten business days of receiving a request for information, the information at issue is presumed to be public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App. – Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316 (Tex. App. – Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). To overcome this presumption, the governmental body must demonstrate a compelling reason to withhold the requested information from disclosure. Gov't Code § 552.302; Open Records Decision No. 319 (1982). The applicability of section 552.101 of the Government Code provides such a compelling reason. Open Records Decision No. 150 (1977).

Section 552.101 excepts from required public disclosure information that is made confidential by law, including information that is made confidential by statute. Chapter 231 of the Family Code relates to the administration of child support programs administered under part D of title IV of the federal Social Security Act, 42 U.S.C. § 651, *et seq.* Chapter 231 contains the following provisions:

Sec. 231.001. DESIGNATION OF TITLE IV-D AGENCY

The office of the attorney general is designated as the state's Title IV-D agency.

....

Sec. 231.004. TITLE IV-D REGISTRY

The Title IV-D agency shall establish a registry for Title IV-D cases that shall:

- (1) receive child support payments;
- (2) maintain a record of child support paid and any arrearages owed under each order;
- (3) distribute child support payments received as required by law; and
- (4) maintain custody of official child support payment records.

....

Sec. 231.101. TITLE IV-D CHILD SUPPORT SERVICES

(a) The Title IV-D agency may provide all services required or authorized to be provided by Part D of Title IV of the federal Social Security Act . . . including:

- (1) parent locator services;
- (2) paternity determination;
- (3) child support and medical support establishment;

- (4) review and adjustment of child support orders;
- (5) enforcement of child support and medical support orders;
- and
- (6) collection and distribution of child support payments.

....

Sec. 231.108. CONFIDENTIALITY OF RECORDS AND PRIVILEGED COMMUNICATIONS

(a) [A]ll files and records of services provided under this chapter, including information concerning a custodial parent, noncustodial parent, child, and an alleged or presumed father, are confidential.

In this instance, the requestor seeks information contained in a file or record of services provided under chapter 231 of the Family Code. We therefore conclude that the requested information is confidential under section 552.101 of the Government Code in conjunction with section 231.108 of the Family Code. Consequently, the attorney general must not disclose the requested information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

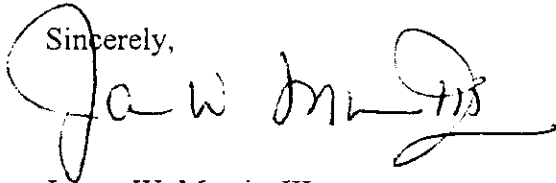
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.-Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in dark ink, appearing to read "J W Morris III", with a stylized flourish at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ch

Ref: ID# 131221

Encl. Submitted documents

cc: Mr. Lee Finney
3800 Long Leaf Lane
Fort Worth, Texas 76137
(w/o enclosures)